

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

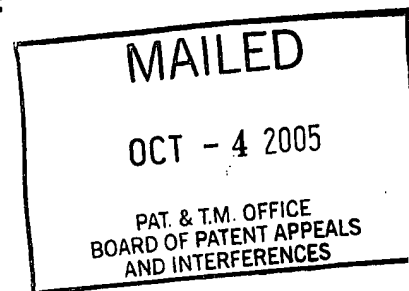
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Ex parte KIRK S. GIBONEY and JONATHAN SIMON

\_\_\_\_\_  
Application No. 10/007,494

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on June 21, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On August 12, 2004, the examiner mailed an examiner's answer. There is no clear indication that an appeal conference was held because the examiner's answer contains only the typed names of the conferees (i.e., Rodney Bovernick and Olik Chaudhury). No signature or initialing by the conferees is present. The Manual of Patent Examining Procedures (MPEP) § 1208 states:



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On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the typed or printed names of the other two appeal conference participants. These two appeal conference participants must place their initials next to their name. This will make the record clear that an appeal conference has been held.

Upon receipt of the appeal case by the Board of Patent Appeals and Interferences (Board), the Board should review the application prior to assigning an appeal number to determine whether an appeal conference has been held.

Also, on March 14, 2005, appellants filed an Information Disclosure Statement. It is not clear from the record whether the examiner considered the statement(s) submitted or whether the examiner notified appellants of why their submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

Accordingly, it is

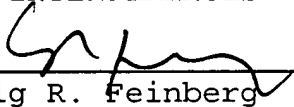
ORDERED that this application be returned to the examiner for: 1) proper indication that an appeal conference was held; 2) notifying the appellants, in writing, that the appeal conference was held; 3) consideration of the Information Disclosure Statement; 4) appropriate notification by the examiner to appellants of such consideration; and 5) for such further action as may be appropriate.

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It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: \_\_\_\_\_

  
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CRF/tdl